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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DONALD HINTON, DAVID HINTON,
and JOHN REYES,

Plaintiffs,

vs.

CLARK COUNTY, NEVADA, a political
subdivision, acting by and through the
LAS VEGAS METROPOLITAN POLICE
DEPARTMENT; JOHN DOES 1-30; and
ROE ENTITIES 1-10,

Defendants.

CV-S-03-0057-PMP-PAL

COMPLAINT AND DEMAND FOR
JURY TRIAL

Plaintiffs, for their causes of action against Defendants, and each of them, allege
as follows:

NATURE OF THE ACTION

This is an action brought pursuant to 42 USC §§ 1983 and 1988 for violations of Plaintiffs' federal and state constitutional and statutory civil rights, including without limitation the Second, Fourth, Fifth, Sixth and Fourteenth Amendments to the United States Constitution, and the corresponding provisions of the Constitution of the State of Nevada; for damages resulting from the violations of those rights; and for attorney's fees and costs incurred in prosecuting this action. This action also asserts supplemental state law tort claims brought pursuant to 28 USC §1367(a).

PARTIES

1. Donald Hinton, David Hinton, and John Reyes are citizens of the United States and residents of Las Vegas, Nevada, and have been residents of Las Vegas, Nevada at all times described in this complaint.

2. Defendant Clark County, Nevada is a political subdivision organized and existing under the laws of the State of Nevada that establishes and implements law enforcement policies and practices through the Las Vegas Metropolitan Police Department. This defendant is referred to hereafter as "Metro" and has the capacity to sue and to be sued.

3. Defendants John Does 1-30 are individuals whose true identities are presently unknown because those identities have been purposefully and deliberately concealed by Defendant Metro and/or others, who have secreted and/or destroyed and removed from public access all of the public records that evidence and describe the events that form the basis for this action. Defendants Does 1-30 are police officers and other employees of Defendant Metro and/or Clark County, Nevada, and/or Defendant Roe Entities 1-10, who directed and/or participated in obtaining a search warrant for and executing the unlawful search and seizure that is described below; in unlawfully arresting and detaining the Plaintiffs as described below; in unlawfully destroying the real and personal property at the residence of Donald Hinton as described below; in seizing and converting the personal property of Plaintiffs as described below; and in

1 concealing and covering up the facts of the events that form the basis for this action.
2 Each and all of these Defendants Doe 1-30 were employed by Defendant Metro or by
3 some other agency of Clark County, Nevada and/or another governmental agency or
4 entity, and were acting under color of law and within the scope of their employment in
5 the course and at the time of the events described in this complaint.

6 4. Defendant Roe Entities 1-10 are federal, state or local governmental
7 agencies, other than Defendant Metro, whose true identities are presently unknown,
8 also because those identities have been purposefully and deliberately concealed by
9 virtue of the destruction and/or removal from public access all of the public records that
10 evidence and describe the events that form the basis for this action. Defendants Roe
11 Entities 1-10 employed and/or supervised and/or directed some or all of the Defendants
12 Doe 1-30 in the events described in this complaint. Defendant Roe Entities 1-10 were
13 acting under color of law at the time of the events described in this complaint.

14 JURISDICTION AND VENUE

15 5. Jurisdiction lies in the United States District Court pursuant to 28 USC §
16 1331 because this action arises under 42 USC §§ 1983 and 1988, and under the
17 Constitution and laws of the United States. This Court has jurisdiction over Defendant
18 Metro, Defendants Doe 1-30, and Defendants Roe Entities 1-10 pursuant to 28 USC §
19 1343. This Court has jurisdiction of the supplemental state law claims under 28 USC §
20 1367(a) because all claims arise out of the same transactions and occurrences, and derive
21 from a common nucleus of operative facts, as do the federal law claims. This complaint
22 is timely filed within the applicable statute of limitations.

23 6. Venue properly lies in the United States District Court for the District of
24 Nevada because all of the acts and omissions complained of occurred within the District
25 of Nevada, and one or more of the defendants reside within the District of Nevada.

26 FACTS COMMON TO ALL CLAIMS FOR RELIEF

27 7. Plaintiffs reallege the allegations set forth in paragraphs 1-6 above the
28 same as if set forth herein in full.

1 8. On January 6, 2001, unbeknownst to Plaintiffs and known only to
2 Defendants, Defendants, personally or through their agents and representatives,
3 obtained a search warrant to search a home at 1919 Hallwood Drive, Las Vegas,
4 Nevada. The home was owned by Donald Hinton. Donald Hinton and his son, David
5 Hinton, lived in the home. John Reyes was a friend of David Hinton, and sometimes
6 stayed in the home.

7 9. The search warrant permitted a search of the home for methamphetamine,
8 paraphernalia associated with the ingestion and distribution of methamphetamine, and
9 items that would prove possession of methamphetamine.

10 10. On the evening of January 16, 2002 – more than one year after the search
11 warrant was issued – Donald Hinton was in the kitchen of his home at 1919 Hallwood,
12 baking chocolate chip cookies. David Hinton, John Reyes, and a female friend of John
13 Reyes were in the home. At about 11:30 PM, Donald Hinton heard an explosion outside
14 his house. Mr. Hinton went to the front door, opened the inner door, and looked out
15 through the metal security door to see what had caused the explosion. At that point,
16 another explosion went off.

17 11. From his position inside the security door, Donald Hinton shouted to his
18 son, David, to get down. At that point, Donald Hinton saw approximately eight men,
19 armed with rifles and wearing black hooded masks and combat fatigues, at the front of
20 his house. He shouted to the men, asking them to identify themselves.

21 12. The hooded men did not identify themselves and, instead, fired shotgun
22 blasts at Donald Hinton. Two of the rounds struck the metal security door where
23 Donald Hinton was standing.

24 13. Immediately thereafter, using their weapons and battering rams, and
25 without identifying themselves, the armed men broke through the door to Donald
26 Hinton's home, ordered Donald and David Hinton, John Reyes, and Mr. Reyes' female
27 friend to the floor, then handcuffed all of them. Shortly thereafter, the armed men
28 pulled Donald Hinton, David Hinton, John Reyes, and Mr. Reyes' female friend to their

1 feet, marched them out of the house, and ordered them to sit on the ground in the front
2 yard of a neighboring house. The outside temperature at that time – approximately
3 midnight on January 16, 2002 – was in the 40s. Donald Hinton, David Hinton, John
4 Reyes and his friend were forced to sit handcuffed on the ground, without jackets or
5 warm clothing, for approximately an hour. At no time did any of the armed men
6 explain who they were or what they were doing, nor did they produce a search
7 warrant.

8 14. While the Hintons, Mr. Reyes and his friend were outside on the ground,
9 the armed men used their battering rams and broke holes in the walls and ceiling of Mr.
10 Hinton's home, pulled out and emptied drawers, turned over and sliced furniture, and
11 generally ransacked Donald Hinton's home and belongings, causing very substantial
12 damage to Mr. Hinton's home and to the personal property of the parties. This went on
13 for about fifteen minutes. At no time during this ransacking did the armed men
14 identify themselves or their purpose, nor did they present a search warrant or any other
15 justification for their conduct.

16 15. Thereafter, Donald and David Hinton and John Reyes were arrested and
17 taken by Defendants to the Clark County Detention Center, where they were booked on
18 charges related to possession of firearms and possession of marijuana.

19 16. After being held for nearly twenty-four hours in jail, Donald and David
20 Hinton and John Reyes were bonded out and released. At the time of their release, they
21 were given paperwork requiring them to make an initial appearance in the Justice
22 Court of Las Vegas Township on February 19, 2002, to answer the charges against them.
23 By the time of their release, none of the men had been informed what had been the
24 purpose or object of the search and ransacking of Mr. Hinton's home.

25 17. Upon arriving back at home, Donald Hinton found a copy of a search
26 warrant and return inside his house. The return on the search warrant indicated that
27 none of the items sought by the search warrant -- methamphetamine, paraphernalia
28 associated with the ingestion and distribution of methamphetamine, or items that

1 would prove possession of methamphetamine – had been found or seized. In addition,
2 upon returning home, Mr. Hinton discovered that several firearms that were family
3 heirlooms had been seized during the raid.

4 18. On February 19, 2002, Donald and David Hinton and John Reyes went to
5 the Justice Court, at the scheduled time, to make their initial appearances. When the
6 men checked in with the bailiff at the Justice Court, they were told that they could not
7 appear in front of the judge, that they should leave the Court, and that the Court would
8 be in touch with them. Donald Hinton responded by telling the bailiff that they had
9 been ordered to appear on the date and time for which they were present, and insisted
10 that the men should have an opportunity to appear before the Court. The bailiff
11 continued to refuse to let the men appear before the Court and ordered the men to
12 leave. They complied, and left the courthouse.

13 19. Since the time that Donald and David Hinton and John Reyes left the
14 courthouse on February 19, 2002, they have not been contacted by the Justice Court, by
15 Metro, by the District Attorney, or by anyone, concerning the criminal charges filed
16 against them or concerning any aspect of the events of January 16, 2002. On
17 information and belief, Plaintiffs allege that the criminal charges filed in connection
18 with the raid of January 16, 2002, have been dismissed, although Plaintiffs have never
19 received notice of that dismissal. The firearms seized in the raid have never been
20 returned.

21 20. On January 7, 2003, Donald Hinton went to the offices of Defendant Metro
22 and made a written and oral request for copies of all records related to the events of
23 January 16, 2002, and all records relating to the arrests of Donald and David Hinton and
24 John Reyes made on January 16, 2002. After searching for such records, a representative
25 of Defendant Metro informed Donald Hinton there is no arrest report for the arrests
26 made on January 16, 2002, and no other record of the search, seizure, or ransacking that
27 occurred at 1919 Hallwood on January 16, 2002.

28

**FIRST CLAIM FOR RELIEF: VIOLATIONS OF FEDERAL CONSTITUTIONAL
RIGHTS – 42 USC § 1983**

21. Plaintiffs incorporate by this reference the allegations contained in paragraphs 1-20 above the same as if set forth herein in full.

22. At all times relevant hereto, Donald Hinton, David Hinton and John Reyes were citizens of the United States and were, therefore, entitled to the rights, privileges, and immunities secured by the Constitution and laws of the United States.

23. By their conduct as described above, Defendants and each of them, acting individually and in concert, and with deliberate indifference, deprived Donald Hinton, David Hinton, and John Reyes of the protections of the Second, Fourth, Fifth, Sixth, and Fourteenth Amendments to the United States Constitution in many ways, including without limitation the following:

A. The Fourth Amendment to the United States Constitution provides that citizens have a constitutional right to be free from unreasonable searches and seizures. Defendants herein made false representations to obtain the search warrant that was issued on January 6, 2001; therefore, the search warrant was not based on probable cause and was unlawfully obtained. The search warrant was not executed until January 16, 2002; therefore, any information upon which the warrant was obtained was stale even if it had been accurate. Accordingly, there was no probable cause to conduct the search that was conducted, and the search and seizure conduct pursuant to the stale search warrant was an unlawful and unreasonable search. At the time the warrant was executed, the methods utilized in conducting the search exceeded the scope of the warrant and all bounds of reasonable police conduct, rendering the search unlawful.

B. The Fifth Amendment to the United States Constitution provides that citizens shall not be deprived of liberty or property without due process of law. Defendants herein took Donald Hinton, David Hinton and John Reyes into custody without due process of law, and without probable cause or other legal justification for

1 doing so, and deprived them of their liberty for a significant period of time. Defendants
2 destroyed and/or badly damaged substantial portions of the home owned by Donald
3 Hinton, and destroyed and/or badly damaged substantial amounts of personal property
4 owned by Donald and David Hinton and John Reyes, all without due process of law
5 and without legal justification for doing so. Defendants seized valuable items of
6 personal property belonging to Donald and David Hinton without due process of law
7 and without legal justification for doing so, and have kept and maintained possession of
8 that property and have never returned that property to Donald and David Hinton.
9 Although Plaintiffs had a specific scheduled hearing at which they could appear before
10 the Courts of the state of Nevada and seek to avail themselves of and to exercise their
11 rights to due process of law, Defendants prevented Plaintiffs from appearing at that
12 hearing and thereby further deprived Plaintiffs of their rights to due process of law.

13 C. The Sixth Amendment to the United States Constitution provides
14 that citizens shall have a right to effective assistance of counsel in legal matters that
15 affect their substantial rights. Implicit in that right to counsel is the right of citizens to
16 have a full and fair opportunity to obtain and review all of the evidence that may bear
17 on proceedings affecting their legal rights. Defendants herein have purposefully and
18 deliberately secreted and/or destroyed all records that describe and memorialize the
19 events of January 16, 2002. In so doing, Defendants have prevented Plaintiffs from
20 obtaining and reviewing evidence that is critical to defending themselves in any
21 criminal action, and from obtaining and reviewing evidence that is critical to enabling
22 Plaintiffs to vindicate the constitutional rights violated by Defendants' conduct. By
23 virtue of this conduct, Defendants have prevented Plaintiffs and their counsel from
24 gathering relevant and admissible evidence and therefore, have deprived Plaintiffs of
25 their right to effective assistance of counsel.

26 D. The Second Amendment to the United States Constitution provides
27 that citizens shall have the right to bear arms. Defendants have seized firearms
28 belonging to Donald and David Hinton, have never returned those firearms, and have

converted those firearms to their own use. In so doing, Defendants have deprived Plaintiffs of their constitutional right to bear arms.

24. As the direct and proximate result of the acts and omissions of Defendants, and each of them, Donald and David Hinton and John Reyes suffered deprivations of their constitutional rights and are entitled to reasonable amounts as and for special and compensatory damages.

25. Plaintiffs have been required to retain the services of counsel to prosecute this action to vindicate their constitutional rights, therefore, Plaintiffs are entitled to a reasonable amount as and for attorney's fees and costs of litigation pursuant to 42 USC § 1988.

SECOND CLAIM FOR RELIEF:

VIOLATIONS OF STATE CONSTITUTIONAL RIGHTS

28 USC § 1367(a)

26. Plaintiffs incorporate by this reference the allegations contained in paragraphs 1-20 above the same as if set forth herein in full.

27. At all times relevant hereto, Donald Hinton, David Hinton and John Reyes were citizens of the State of Nevada and were, therefore, entitled to the rights, privileges, and immunities secured by the Constitution and laws of the State of Nevada.

28. By their conduct as described above, Defendants and each of them, acting individually and in concert, and with deliberate indifference, deprived Donald Hinton, David Hinton, and John Reyes of the protections of the Nevada Constitution in many ways, including without limitation the following:

A. Article 1 § 18 of the Nevada Constitution guarantees to citizens the right be secure in their persons, houses, papers and effects against unreasonable seizures and searches; and provides that no warrant shall issue but on probable cause, supported by Oath or Affirmation, particularly describing the place or places to be searched, and the person or persons, and thing or things to be seized. Defendants herein made false representations to obtain the search warrant that was issued on

1 January 6, 2001, therefore, the search warrant was not based on probable cause and was
2 unlawfully obtained. The search warrant was not executed until January 16, 2002;
3 therefore, any information upon which the warrant was obtained was stale even if it
4 had been accurate. Accordingly, there was no probable cause to conduct the search that
5 was conducted, and the search and seizure conduct pursuant to the stale search warrant
6 was an unlawful and unreasonable search. At the time the warrant was executed, the
7 methods utilized in conducting the search exceeded the scope of the warrant and all
8 bounds of reasonable police conduct, rendering the search unlawful.

9 B. Article 1 §§ 1 and 8 of the Nevada Constitution provide that
10 citizens have the right to enjoy and defend life and liberty; to acquire, possess, and
11 protect property; to pursue and obtain safety and happiness; and to be free of
12 deprivations of liberty and property without due process of law. Defendants herein
13 took Donald Hinton, David Hinton and John Reyes into custody without due process of
14 law, and without probable cause or other legal justification for doing so, and deprived
15 them of their liberty for a significant period of time. Defendants destroyed and/or
16 badly damaged substantial portions of the home owned by Donald Hinton, and
17 destroyed and/or badly damaged substantial amounts of personal property owned by
18 Donald and David Hinton and John Reyes, all without due process of law and without
19 legal justification for doing so. Defendants seized valuable items of personal property
20 belonging to Donald and David Hinton without due process of law and without legal
21 justification for doing so, and have kept and maintained possession of that property and
22 have never returned that property to Donald and David Hinton. Although Plaintiffs
23 had a specific scheduled hearing at which they could appear before the Courts of the
24 state of Nevada and seek to avail themselves of and to exercise their rights to due
25 process of law, Defendants prevented Plaintiffs from appearing at that hearing and
26 thereby deprived Plaintiffs of their rights to due process of law.

27 C. Article 1 § 11 of the Nevada Constitution provides that every
28 citizen has the right to keep and bear arms for security and defense, for lawful hunting

1 and recreational use and for other lawful purposes. Defendants have seized firearms
2 belonging to Donald and David Hinton, have never returned those firearms, and have
3 converted those firearms to their own use. In so doing, Defendants have deprived
4 Plaintiffs of their constitutional right to bear arms for lawful purposes.

5 29. As the direct and proximate result of the acts and omissions of
6 Defendants, and each of them, Donald and David Hinton and John Reyes suffered
7 deprivations of their constitutional rights and are entitled to reasonable amounts as and
8 for special and compensatory damages.

9 30. Plaintiffs have been required to retain the services of counsel to prosecute
10 this action to vindicate their constitutional rights, therefore, Plaintiffs are entitled to a
11 reasonable amount as and for attorney's fees and costs of litigation pursuant to NRS §
12 18.005, et seq.

13 **THIRD CLAIM FOR RELIEF: FALSE IMPRISONMENT UNDER STATE LAW**

14 **28 USC § 1367(a)**

15 31. Plaintiffs incorporate by this reference the allegations contained in
16 paragraphs 1-20 above the same as if set forth herein in full.

17 32. By their acts and omissions as set forth above, Defendants, and each of
18 them caused Donald Hinton, David Hinton and John Reyes to be detained and
19 confined, resulting in the loss of Plaintiffs' personal liberty.

20 33. Defendants' detention and confinement of Plaintiffs occurred without
21 sufficient legal authority.

22 34. As the direct and proximate result of the acts and omissions of
23 Defendants, and each of them, Donald and David Hinton and John Reyes suffered
24 special and general damages and are entitled to reasonable amounts as and for special
25 and compensatory damages.

26 35. Plaintiffs have been required to retain the services of counsel to prosecute
27 this action to vindicate their constitutional rights, therefore, Plaintiffs are entitled to a
28

1 reasonable amount as and for attorney's fees and costs of litigation pursuant to NRS §
2 18.005, et seq.

3 **FOURTH CLAIM FOR RELIEF: BATTERY UNDER STATE LAW**

4 **28 USC § 1367(a)**

5 36. Plaintiffs incorporate by this reference the allegations contained in
6 paragraphs 1-20 above the same as if set forth herein in full.

7 37. By their acts as described above, Defendants, and each of them, made
8 unwanted physical contact with Donald Hinton, David Hinton and John Reyes.

9 38. Defendants' physical contact with Plaintiffs occurred without Plaintiffs'
10 permission or authority, and without legal privilege or justification, therefore, the
11 physical contact constitutes battery.

12 39. Plaintiffs sustained general damages as the direct and proximate result of
13 the battery committed by Defendants, therefore, Plaintiffs are entitled to reasonable
14 amounts as and for compensatory damages.

15 40. Plaintiffs have been forced to retain the services of counsel to prosecute
16 this action, therefore, Plaintiffs are entitled to an award of reasonable attorney's fees
17 and costs pursuant to NRS § 18.005, et seq.

18 **FIFTH CLAIM FOR RELIEF: TRESPASS UNDER STATE LAW**

19 **28 USC § 1367(a)**

20 41. Plaintiffs incorporate by this reference the allegations contained in
21 paragraphs 1-20 above the same as if set forth herein in full.

22 42. By their acts as described above, Defendants, and each other them,
23 entered upon Donald Hinton's real property, without the permission or authority of
24 Donald Hinton or any other person authorized to give permission for such entry.

25 43. By their acts as described above, Defendants, and each other them, seized
26 and took possession of personal property of Plaintiffs, without the permission or
27 authority of Plaintiffs or any other person authorized to give permission for the taking.
28

1 44. Defendants' entry upon Donald Hinton's land and taking of the parties'
2 chattels occurred without permission or authority, and without legal privilege or
3 justification, therefore, the entry and taking constitute trespass to land and trespass to
4 chattels.

5 45. Plaintiffs sustained general damages as the direct and proximate result of
6 the battery committed by Defendants, therefore, Plaintiffs are entitled to reasonable
7 amounts as and for compensatory damages.

8 46. Plaintiffs have been forced to retain the services of counsel to prosecute
9 this action, therefore, Plaintiffs are entitled to an award of reasonable attorney's fees
10 and costs pursuant to NRS § 18.005, et seq.

11 **SIXTH CLAIM FOR RELIEF: CONVERSION UNDER STATE LAW**

12 47. Plaintiffs incorporate by this reference the allegations contained in
13 paragraphs 1-20 above the same as if set forth herein in full.

14 48. By their conduct as described above, Defendants, and each of them, seized
15 and took possession and control of Plaintiffs' personal property without Plaintiffs'
16 permission or authority.

17 49. Defendants have not returned to Plaintiffs those items of Plaintiffs'
18 personal property that were seized and taken by Defendants, and Defendants have
19 appropriated Plaintiffs' personal property to Defendants' own uses.

20 50. The seizure, taking, and failure to return items of Plaintiffs' personal
21 property is without legal privilege or justification, therefore, the taking constitutes
22 conversion of Plaintiffs' personal property.

23 51. Plaintiffs sustained general damages as the direct and proximate result of
24 the conversion of Plaintiffs' personal property, therefore, Plaintiffs are entitled to
25 reasonable amounts as and for compensatory damages.

26 52. Plaintiffs have been forced to retain the services of counsel to prosecute
27 this action, therefore, Plaintiffs are entitled to an award of reasonable attorney's fees
28 and costs pursuant to NRS § 18.005, et seq.

A. Granting judgment in favor of Plaintiffs and against Defendants on such claims and in such amounts as Plaintiffs shall prove themselves entitled at the jury trial of this case;

B. Awarding Plaintiffs their reasonable attorney's fees and costs incurred in this litigation pursuant to 42 USC §§ 1983 and 1988 and NRS § 18.005, et seq.;

C. Awarding Plaintiffs prejudgment interest pursuant to NRS § 17.130;

D. Awarding such other and further relief as the Court deems proper under the circumstances.

Dated this 15th day of January, 2003.

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Attorneys for Plaintiffs

Plaintiffs, through counsel, hereby demand a trial by jury of all issues so triable herein.

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